

**LEGISLATION AFFECTING THE FEDERAL
RULES OF PRACTICE AND PROCEDURE¹
107th Congress**

SENATE BILLS

- S. 16 - *21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act*
 - Introduced by: Daschle.
 - Date Introduced: 1/22/01.
 - Status: Referred to the Committee on the Judiciary (1/22/01).
 - Related Bill: None.
 - Key Provisions:
 - Section 2134(c) amends **Criminal Rule 35(b)** to broaden the types of information eligible for sentence reduction.
 - Section 3113 amends **Criminal Rule 11** to require the Government to make reasonable efforts to notify a victim of (1) the time and date of any hearing where the defendant plans to enter a guilty or nolo contendere plea; and (2) the right to attend and be heard at that hearing. The Judicial Conference must, within 180 days after the Act's enactment, submit to Congress a report recommending the amendment of the **Criminal Rules** to provide "enhanced opportunities" for victims to be heard on whether the court should accept the defendant's guilty or no contest plea. Said report must be submitted no later than 180 days after enactment of the Act.
 - Section 3115 amends **Criminal Rule 32** to require a probation officer to give the victim an opportunity to submit a statement to the court regarding a sentence before the probation officer submits his or her presentence report to the court.
 - Section 3116 amends **Criminal Rule 32.1(a)** to require that the Government make reasonable efforts to notify the victim of the right to notice and opportunity to be heard at any hearing to revoke or modify the defendant's sentence. The Judicial Conference must submit to Congress a report recommending the amendment of the **Criminal Rules** to provide notice of any revocation hearing held pursuant to **Criminal Rule 32.1(a)(2)** to the victim and to afford an opportunity to be heard.

- S. 34 - *A bill to eliminate a requirement for a unanimous verdict in criminal trials in Federal courts*
 - Introduced by: Thurmond.

¹The Congress has authorized the federal judiciary to prescribe the rules of practice, procedure, and evidence for the federal courts, subject to the ultimate legislative right of the Congress to reject, modify, or defer any of the rules. The authority and procedures for promulgating rules are set forth in the Rules Enabling Act. 28 U.S.C. §§ 2071-2077.

- Date Introduced: 1/22/01.
 - Status: Referred to the Committee on the Judiciary (1/22/01).
 - Related Bill: None.
 - Key Provisions:
 - The bill amends **Criminal Rule 31(a)** to eliminate the requirement of a unanimous verdict in a criminal trial and would instead require a verdict by 5/6 of the jury.
- S. 420 - *Bankruptcy Reform Act of 2001*
- Introduced by: Leahy, Kennedy, Feingold, Murray, Johnson, Schumer, Harkin.
 - Date Introduced: 4/26/01.
 - Status: Passed Senate with amendments by 83 - 15 (3/15/01). Senate appointed conferees on July 17, 2001. House appointed conferees on July 31, 2001. Conference report filed (July 26, 2002).
 - Related Bills: S.220, H.R.333.
 - Key Provisions:
 - Section 221 amends **Section 110, Title 11**, Bankruptcy Code, to require a bankruptcy petition preparer to provide to the debtor a notice, the contents of which are specified in the proposed amendment. The provision also states that the notice shall be an official form issued by the Judicial Conference.
 - Section 419 directs the Advisory Committee on Bankruptcy Rules, after considering the views of the Executive Office for the United States Trustees, to propose amendments to the **Bankruptcy Rules** and **Official Bankruptcy Forms** that assist the debtor in a chapter 11 case to disclose the value, operations, and profitability of any closely-held business.
 - Section 433 directs the Advisory Committee to propose amendments to the **Bankruptcy Rules** and **Official Bankruptcy Forms** that contain a standard form disclosure statement and reorganization plan for small business debtors.
 - Section 435 directs the Advisory Committee to propose amendments to the **Bankruptcy Rules** and **Official Bankruptcy Forms** rules and forms to be used by small business debtors to file periodic financial and other reports.
 - Section 716(e) expresses a “sense of Congress” that the Advisory Committee should propose amendments to the **Bankruptcy Rules** and **Official Bankruptcy Forms** that govern the treatment of tax claims in chapter 13 case.
- S. 486 - *Innocence Protection Act of 2001*
- Introduced by: Leahy.
 - Date Introduced: 3/7/01.
 - Status: Referred to the Committee on Judiciary (6/27/01). Markup session held (7/11/02). Committee reported the bill favorably, as amended, by a vote of 12-7 (7/18/02). Committee placed on Senate legislative calendar (10/16/02).
 - Related Bills: S. 800, S. 2446, S. 2739, H.R. 912.
 - Key Provisions:

— The bill authorizes a person convicted of a federal crime to apply to the appropriate federal court for DNA testing to support a claim that the person did not commit: (1) the federal crime of which the person was convicted; or (2) any other offense that a sentencing authority may have relied upon when it sentenced the person with respect to such crime.

— The bill also prescribes procedures for the court to follow in ordering DNA testing.

● S. 783 - *Crime Victims Assistance Act of 2001*

- Introduced by: Leahy, Kennedy, Feingold, Murray, Johnson, Schumer, Harkin.

- Date Introduced: 4/26/01.

- Status: Referred to the Committee on the Judiciary (4/26/01).

- Related Bill: None.

- Key Provisions:

- Section 103(b) amends **Criminal Rule 11** to require the court, before entering judgment, to ask the Government if the victim has been consulted on the defendant's guilty plea.

- Section 103(c)(2) directs the Judicial Conference to, within 180 days after the date of the enactment of the Act, submit to Congress a report recommending amending the **Criminal Rules** to provide "enhanced opportunities" for victims to be heard on whether the court should accept the defendant's guilty or no contest plea.

- Section 105(b) amends **Criminal Rule 32** by striking the phrase "if the [sic] sentence is to be imposed for a crime of violence or sexual abuse."

- Section 105(b) also amends **Criminal Rule 32(f)** to eliminate the definition of "crime of violence or sexual abuse."

● S. 791 - *Video Teleconferencing Improvements Act of 2001*

- Introduced by: Thurmond.

- Date Introduced: 4/26/01.

- Status: Referred to the Committee on the Judiciary (4/26/01).

- Related Bill: None.

- Key Provisions:

- The bill amends **Criminal Rule 5** to allow an initial appearance by video teleconference. Defendant's consent not required.

- The bill amends **Criminal Rule 10** to allow arraignment by video teleconference. Defendant's consent is not required.

- The bill amends **Criminal Rule 43** to conform to amended Rules 5 and 10 and permits sentencing by video conference under certain conditions.

● S. 800 - *Criminal Justice Integrity and Innocence Protection Act of 2001*

- Introduced by: Feinstein.

- Date Introduced: 4/30/01.

- Status: Referred to the Committee on the Judiciary (4/30/01).
- Related Bill: S. 486, S. 2446, S. 2739, H.R. 912.
- Key Provisions:
 - Section 101 amends Part II, Title 18, U.S.C., by adding a chapter setting forth procedures for post-conviction DNA testing. Under the Act, if the DNA testing produces exculpatory evidence, the defendant may, during the sixty-day period following notification of the DNA test results, move for a new trial based on newly discovered evidence under **Criminal Rule 33**. The Act specifically allows such a motion “notwithstanding any provision of law that would bar such a motion as untimely.”

● S. 803 - *E-Government Act of 2002*

- Introduced by: Lieberman.
- Date Introduced: 5/1/01.
- Status: Referred to the Committee on Governmental Affairs (7/11/01); reported with an amendment in the nature of a substitute (3/21/02); Passed in Senate with amendment (S. Amdt 4172) (6/27/02). Message on Senate action sent to the House (7/8/02). Received in the House and referred to the House Committee on Government Reform (7/8/02). Referred to the House Committee on Technology and Procurement Policy (7/17/02). Subcommittee hearings held (9/18/02).
- Related Bill: H.R. 2458
- Key Provisions:
 - Title I creates the Office of Electronic Government with the Office of Management and Budget to promote and oversee the implementation of Internet-based information technology within the federal government.
 - Section 205(a) requires that each federal court establish a website that includes information such as the location and contact information for the courthouse, local rules and general orders of the court, case docket information, all written court opinions (published and unpublished), and all documents filed with the court in electronic form.
 - Section 205(b) requires that the information and rules posted on each federal court website shall be updated regularly and kept reasonably current. Electronic files and docket information pertaining to cases closed for more than one year are not required to be posted on the website. All written opinions issued after the effective date of the legislation shall remain available on the website.
 - Section 205(c) states that any document filed electronically shall be made available on the court website. However, documents not available to the public (*i.e.*, filed under seal) shall not be made available online. The Judicial Conference may promulgate rules under this section to “protect important privacy and security concerns.”
 - Section 205(f) states that the federal courts must establish the Section 205(a) websites within two years after the effective date of the legislation. Access to documents filed in electronic form shall be established within four years of the

effective date of the legislation.

— Section 205(g) allows courts to defer compliance with this section. The Judicial Conference shall submit an annual report to Congress that lists, summarizes, and evaluates all deferral notices.

- S. 848 - *Social Security Number Misuse Prevention Act of 2001*

- Introduced by: Feinstein

- Date Introduced: 5/9/01

- Status: Referred to the Committee on Judiciary (5/9/01). Favorably reported by the Judiciary Committee, with an amendment (5/16/02). Referred to the Committee on Finance (5/16/02). Committee on Finance Subcommittee on Social Security and Family Policy held hearing on bill (July 11, 2002).

- Related Bill: H.R. 4513

- Key Provisions:

- Section 3 amends **Title 18, Chapter 47**, to prohibit the sale, public display, or wrongful use of a person's social security number without that person's consent.

- Section 4 amends **Title 18, Chapter 47**, to clarify that the above prohibition applies to court records that are available to the public. This prohibition, however, does not apply to public records that "incidentally" include a person's social security number. Section 4 defines "incidental" to mean "that the social security number is not routinely displayed in a consistent and predictable manner on the public record by a government entity, such as on the face of a document."

- S. 986 - *A bill to allow media coverage of court proceedings*

- Introduced by: Grassley.

- Date Introduced: 6/5/01.

- Status: Referred to the Committee on Judiciary (6/5/01); reported without amendment and placed on Senate Legislative Calendar under General Orders (11/29/01).

- Related Bill: H.R. 2519.

- Key Provisions:

- The bill authorizes a presiding district or circuit court judge to permit media coverage of court proceedings over which that judge presides.

- The bill also authorizes the Judicial Conference to promulgate advisory guidelines in order to implement a media coverage policy.

- S. 1315 - *Judicial Improvement and Integrity Act of 2001*

- Introduced by: Leahy.

- Date Introduced: 8/2/01.

- Status: Referred to the Committee on Judiciary (8/2/01).

- Related Bill: None.

- Key Provisions:

- The bill (1) amends 18 U.S.C. § 1512 to increase the criminal penalty for those who use physical force or threaten the use of physical force against witnesses,

victims, or informants; (2) amends Title 18, U.S.C., to authorize the imposition of both a fine and a term of imprisonment; (3) amends Chapter 213 of title 18, U.S.C., to permit the reinstatement of criminal counts dismissed pursuant to a plea agreement; and (4) clarifies certain sentencing provisions.

- S. 1437 - *Professional Standards for Government Attorneys Act of 2001*

- Introduced by: Leahy.
- Date Introduced: 9/19/01.
- Status: Referred to the Committee on Judiciary (9/19/01).
- Related Bill: None.
- Key Provisions:
 - The bill amends **28 U.S.C. § 530B** to: (1) clarify the applicable standards of professional conduct that apply to a “government attorney”; (2) provide that a “government attorney” may participate in covert activities, even though such activities may involve the use of deceit or misrepresentation; and (3) direct the Judicial Conference to prepare two reports regarding the regulation of government attorney conduct.
 - The Act also directs the Judicial Conference to come up with recommendations for amending the **federal rules** to (a) provide for a uniform national rule for “government attorneys” with respect to communicating with represented persons and parties, and (b) address any areas of actual or potential conflict between the regulation of “government attorneys” by existing standards of professional responsibility and the duties of “government attorneys” as they relate to the investigation and prosecution of federal law violations.

- S. 1615 - *Federal-Local Information Sharing Partnership Act of 2001*

- Introduced by: Schumer
- Date Introduced: 11/1/01.
- Status: Referred to the Senate Committee on the Judiciary (11/1/01). Hearing held (12/11/01). Report by the Senate Judiciary Committee with an amendment in the nature of a substitute and placed on Senate Legislative Calendar (9/5/02).
- Related Bill: H.R. 3285, H.R. 4598.
- Key Provisions:
 - Section 2 amends **Criminal Rule 6(e)(3)(C)(i)(V)** to allow the disclosure of grand jury information pertaining to foreign intelligence or counterintelligence to state or local law enforcement officials.

- S. 1712 - *Class Action Fairness Act of 2001*

- Introduced by: Grassley
- Date Introduced: 11/15/01.
- Status: Referred to the Committee on Judiciary (11/15/01). Committee on the Judiciary held hearings (7/31/02).
- Related Bill: H.R. 2341.

- Key Provisions:
 - Section 3 amends **28 U.S.C.** by including an additional chapter on class actions. The Act includes provisions on settlement, notices of settlement information to class members, jurisdiction of federal courts, and removal of class action proceedings to federal court.
 - The Act also directs the Judicial Conference to prepare and submit a report to the House and Senate Committees on the Judiciary within 12 months from the date of the enactment of the Act. In these reports, the Judicial Conference shall include the following: (1) recommendations on the “best practices” that courts can use to ensure that settlements are fair, (2) recommendations to ensure that class members are the primary beneficiaries of settlements, and (3) the actions that the Judicial Conference will take to implement its recommendations.

- S. 1751 - *Terrorism Risk Insurance Act of 2001*
 - Introduced by: Gramm.
 - Date Introduced: 11/30/01.
 - Status: Referred to the Senate Committee on Banking, Housing, and Urban Affairs (11/30/01).
 - Related Bills: H.R. 3210; S. 1748.
 - Key Provisions:
 - Under section 9, within 90 days after the occurrence of an act of terrorism the Judicial Panel on Multidistrict Litigation shall assign a single federal district court to conduct pretrial and trial proceedings in all pending and future civil actions for property damage, personal injury, or death arising out of or resulting from that act of terrorism. The district court assigned by the Judicial Panel on Multidistrict Litigation shall have original and exclusive jurisdiction over all such actions. Punitive or exemplary damages are not allowed under the Act.

- S. 1858 - *Terrorist Victims’ Courtroom Access Act*
 - Introduced by: Allen.
 - Date Introduced: 12/19/01.
 - Status: Referred to the Senate Committee on the Judiciary (12/19/01). Passed Senate with an amendment by unanimous consent (12/20/01). Received in House (1/23/02) and referred to House Committee on the Judiciary (1/23/02). Referred to the House Subcommittee on Courts, the Internet, and Intellectual Property (3/18/02). Modified version of bill passed as part of the 2002 Supplemental Appropriations Act (section 203. Passed House by a vote of 397-32 on July 23, 2002; passed Senate by a vote of 92-7 on July 24, 2002; signed by President on August 2, 2002. Public Law 107-206).
 - Related Bills: H.R. 3611.
 - Key Provisions:
 - Section 2 would authorize, notwithstanding any provision of the Criminal Rules, the closed circuit broadcast of the trial of Zacarias Moussaoui to the victims of the terrorist act of September 11, 2001. The proceedings shall be broadcast to

locations in Northern Virginia, Los Angeles, New York City, Boston, Newark, San Francisco, and any other location that the trial court determines.

- S. 2446 - *Confidence in Criminal Justice Act of 2002*

- Introduced by: Specter
- Date Introduced: 5/2/02.
- Status: Referred to the Senate Committee on the Judiciary (5/2/02).
- Related Bills: S. 486, S. 800, S. 2739, H.R. 912
- Key Provisions:
 - Section 102 would amend 28 U.S.C. § 2251 (Habeas Corpus - Stay of State Court Proceedings) to authorize a justice or judge in a habeas corpus case involving a death sentence to stay execution of sentence until the proceeding is completed. Section 102 would also amend 28 U.S.C. § 2255 to authorize a justice or judge in a proceeding involving a federal death sentence to stay execution of sentence until the proceeding is completed.
 - Section 201 would amend Part II of Title 18, United States Code, by providing provisions on DNA testing procedures.

- S. 2600 - *Terrorism Risk Insurance Act of 2002*

- Introduced by: Dodd
- Date Introduced: 6/7/02
- Status: Introduced in the Senate. Read the first time. Placed on Senate Legislative Calendar (6/7/02). Measure laid before Senate by unanimous consent (6/13/02). Passed Senate with amendments by 84-14 (6/18/02). Senate later incorporated this bill in H.R. 3210 as an amendment (7/25/02).
- Related Bills: H.R. 3210; S. 1748.
- Key Provisions:
 - Section 10 provides for a federal cause of action for property damage, personal injury, or death arising out of or resulting from an act of terrorism. This cause of action shall be the exclusive remedy and recourse for such claims, with the exception of any actions filed against any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism. Section 10 preempts all state actions arising out of such acts of terrorism. Punitive damages awarded in such a civil action shall not count as insurable losses under this Act.
 - Section 10 also sets forth provisions governing the applicable law.

- S. 2739 - *Death Penalty Integrity Act of 2002*

- Introduced by: Hatch
- Date Introduced: 7/17/02
- Status: Referred to Senate Committee on the Judiciary (7/17/02).
- Related Bills: S. 486, S. 800, S. 2446, H.R. 912.
- Key Provisions:
 - Section 101 would amend Part II of Title 18, U.S.C., to set forth the

procedures for a person convicted of a federal crime and is serving a term of imprisonment to file a motion for the performance of DNA testing. The section thereafter sets forth the procedures for DNA testing.

- S. 2917 - *Comprehensive Child Protection Act of 2002*
 - Introduced by: Hatch
 - Date Introduced: 9/10/02
 - Status: Referred to Senate Committee on the Judiciary (9/10/02).
 - Related Bills: None.
 - Key Provisions:
 - Section 6 amends **Evidence Rule 414** to permit the prosecution to introduce evidence that the defendant had committed the offense of possessing sexually explicit materials involving minors. Section 6 also amends the definition of “child” in **Evidence Rules 414 and 415** to mean a person below the age of 18 (instead of the current fourteen).
- S. 3050 - *Multiparty, Multiforum Trial Jurisdiction Act of 2002*
 - Introduced by: Hatch
 - Date Introduced: 10/3/02
 - Status: Referred to Senate Committee on the Judiciary (10/3/02).
 - Related Bills: None.
 - Key Provisions:
 - Section 2 amends **section 85 of title 28, U.S.C.**, to give the district courts original jurisdiction over any civil action involving minimal diversity between adverse parties that arises from a single accident where at least 75 natural persons have died in an accident at a discrete location, provided: (1) a defendant resides in a state and a substantial part of the accident took place in another state; (2) any two defendants reside in different states; or (3) substantial parts of the accident took place in different states. Section 2 also addresses limitations of district court jurisdiction, definitions of terms, notification of the Judicial Panel on Multidistrict Litigation, venue, removal, service, and subpoenas.

HOUSE BILLS

- H.R. 199 - *Law Enforcement Officers Privacy Protection Act*
 - Introduced by: Sweeney.
 - Date Introduced: 1/3/01.
 - Status: Referred to the House Judiciary Committee (1/3/01); referred to the Subcommittee on Courts, the Internet, and Intellectual Property (2/12/01).
 - Related Bills: None.
 - Key Provisions:
 - Section 2 amends **Civil Rule 26(b)** by adding a new subdivision that would allow the discovery of law enforcement personnel records only “upon a showing

by the party seeking discovery that there exists a reasonable basis, supported by facts, for contending that the records sought are necessary and material to an issue involved in the pending action.”

- H.R. 333 - *Bankruptcy Abuse Prevention and Consumer Protection Act of 2001*

- Introduced by: Gekas.
- Date Introduced: 1/31/01.
- Status: House-Senate conference with S. 420 and S. 220 (7/31/01); House-Senate conference held (5/22/02). Conference report filed (7/26/02). House voted 172-243 against considering the conference report (11/15/02). House passed revised bill without abortion-clinic provision by a vote of 244-116 (11/15/02).
- Related Bills: H.R. 71, S. 220, S. 420.
- Key Provisions:
 - Section 319 expresses “the sense of the Congress” that **Bankruptcy Rule 9011** be amended to require a debtor, before submitting any documents to the court, to make all reasonable inquiries to ensure that the information contained within the submitted papers are well grounded in law and in fact.
 - Section 323 amends the **federal judicial code** to: (1) grant the presiding judge exclusive jurisdiction over the debtor’s and the estate’s property, as well as over claims relating to employment or disclosure of bankruptcy professionals; and (2) increase bankruptcy fees and monies deposited as offsetting collections to both the U.S. Trustee Systems Fund and a special Treasury fund.
 - Section 419 directs the Advisory Committee to propose amendments to the **Bankruptcy Rules** and the **Bankruptcy Forms** to require Chapter 11 debtors to disclose any information relating to the value, operations, and profitability of any closely held corporation, partnership, or entity that the debtor holds a substantial interest in.
 - Section 433 directs the Advisory Committee to propose new **Bankruptcy Forms** on standardized disclosure statements and plans of reorganization for small business debtors.
 - Section 435 directs the Advisory Committee to propose amendments to the **Bankruptcy Rules** and the **Bankruptcy Forms** to assist small business debtors in complying with new uniform national reporting requirements.
 - Section 601 amends **chapter 6 of title 28, U.S.C.**, to direct: (1) the clerk of each district to compile bankruptcy statistics for individual debtors with primarily consumer debt seeking relief under chapters 7, 11, and 13; (2) the Administrative Office of the U.S. Courts to make such statistics public; and (3) the AO to report the statistics annually to the Congress.
 - Section 604 expresses the sense of Congress that: (1) the public record data maintained by bankruptcy clerks in electronic form should be released in electronic form to the public subject to privacy concerns and safeguards as developed by the Congress and the Judicial Conference; and (2) a bankruptcy data system should be established.

— Section 716 expresses the sense of Congress that the Advisory Committee propose amendments to the **Bankruptcy Rules** and **Bankruptcy Forms** regarding objections to a plan confirmation by a government unit and to tax returns.

— Section 1233 amends **chapter 158 of title 28, U.S.C.**, to give the courts of appeal jurisdiction to authorize immediate interlocutory appeals from the district court and bankruptcy appellate panel.

- H.R. 733 - *Parent-Child Privilege Act of 2001*

- Introduced by: Andrews.

- Date Introduced: 2/27/01.

- Status: Referred to the House Judiciary Committee (2/27/01); referred to the Subcommittee on Courts, the Internet, and Intellectual Property (3/9/01).

- Related Bills: None.

- Key Provisions:

- Section 2 amends the **Evidence Rules** by adding new Rule 502 creating a parent-child privilege.

- H.R. 860 - *Multidistrict, Multiparty, Multiform Trial Jurisdiction Act of 2001*

- Introduced by: Sensenbrenner

- Date Introduced: 3/6/01.

- Status: House suspended rules and passed bill as amended (3/14/01). Received in the Senate and referred to the Committee on the Judiciary (3/15/01).

- Related Bills: None.

- Key Provisions:

- Section 2 amends **section 1407 of title 28, U.S.C.**, to allow a judge with a transferred case to retain that case for trial or to transfer the case to another district.

- Section 3 amends **section 85 of title 28, U.S.C.**, to give the district courts original jurisdiction over any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed \$150,000 per person, exclusive of interest and costs.

- H.R. 912 - *Innocence Protection Act of 2001*

- Introduced by: Delahunt

- Date Introduced: 3/7/01.

- Status: Referred to the House Committee on the Judiciary (3/7/2001). Referred to the Subcommittee on Crime (4/19/01); hearing held by Subcommittee on Crime (6/18/02).

- Related Bills: S. 486, S. 800, S. 2446, S. 2739.

- Key Provisions:

- The Act was a companion measure with S. 486. Generally, the Act sets forth procedures for postconviction DNA testing.

- H.R. 1478 - *Personal Information Privacy Act of 2001*
 - Introduced by: Kleczka
 - Date Introduced: 4/4/01.
 - Status: Referred to the House Subcommittee on Social Security (4/24/01) and to the House Subcommittee on Financial Institutions and Consumer Credit (4/24/01).
 - Related Bills: None.
 - Key Provisions:
 - The Act prohibits the disclosure, acquisition, and distribution of an individual's Social Security number and other personal information.

- H.R. 1737 - *To amend title 18, United States Code, to provide that witnesses at Federal grand jury proceedings have the right to the assistance of counsel*
 - Introduced by: Traficant
 - Date Introduced: 5/3/01.
 - Status: Referred to the House Subcommittee on Courts, the Internet, and Intellectual Property (5/9/01).
 - Related Bills: None.
 - Key Provisions:
 - The Act amends **chapter 215 of title 18, U.S.C.**, to provide that witnesses before a federal grand jury have the right to the assistance of counsel.

- H.R. 2137 - *Criminal Law Technical Amendments Act of 2001*
 - Introduced by: Sensenbrenner
 - Date Introduced: 6/12/01.
 - Status: Passed in the House by a vote of 374-0 (7/23/01). Referred to the Senate Committee on the Judiciary (7/24/01).
 - Related Bills: None.
 - Key Provisions:
 - The Act amends various provisions of **titles 18 and 21, U.S.C.**, to make punctuation and technical changes relating to criminal law and procedure.

- H.R. 2215 - *21st Century Department of Justice Appropriations Authorization Act*
 - Introduced by: Sensenbrenner
 - Date Introduced: 6/19/01.
 - Status: Referred to the House Judiciary Committee (6/19/01). Passed House by voice vote (7/23/01). Received in the Senate and referred to the Committee on the Judiciary (7/24/01). Passed Senate with amendments (12/20/01). House and Senate appoint conferees (2/6/02). Conference report filed (107-685) (9/25/02). House agreed to conference report (9/26/02). Senate agreed to conference report (10/3/02). President signed into law (Public Law 107-273) (11/2/02).
 - Related Bills: H. Con. Res 503, House Res. 552, H.R. 809, H.R. 863, H.R. 1007, H.R. 1900, H.R. 3892, S. 166, S. 304, S. 320, S. 407, S. 487, S. 862, S. 1099, S. 1140, S. 1208, S. 1319, S. 1974, S. 2713.

- Key Provisions:

- Section 11020 amends **section 85 of title 28, U.S.C.**, to give the district courts original jurisdiction over any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 75 natural persons have either died in the accident at a discrete location if (1) a defendant resides in a state and a substantial part of the accident occurred in another state or location, (2) any two defendants reside in different states, or (3) substantial parts of the accident took place in different states.

- Section 11020 also sets forth provisions on limitations of jurisdiction of district courts, intervening parties, notifying the Judicial Panel on Multidistrict Litigation, venue, removal, and service.

- Section 11019 restores, effective December 1, 2002, two provisions in Rule 16 of the Federal Rules of Criminal Procedure that were inadvertently omitted when the proposed Criminal Rules amendments were transmitted to Congress on April 29, 2002. The omitted provisions impose reciprocal obligations on both the prosecution and the defendant to disclose their expert witnesses' testimony on the defendant's mental condition as it pertained to the issue of guilt.

- H.R. 2341 - *Class Action Fairness Act of 2001*

- Introduced by: Goodlatte

- Date Introduced: 6/27/01.

- Status: Referred to the House Committee on the Judiciary (6/27/01). Passed House Judiciary Committee by a vote of 16 to 10 (3/7/02). Passed House with three amendments (Nadler H. Amdt 435; Keller H. Amdt 437; and Hart H. Amdt 442) by a vote of 233 - 190 (3/13/02). Referred to the Senate Committee on the Judiciary (3/14/02). Senate Committee on the Judiciary held hearings (7/31/02).

- Related Bills: S. 1712; H. Res. 367.

- Key Provisions:

- Section 3 amends **Part V of title 28, U.S.C.**, to include a new chapter on Consumer Class Action Bill of Rights. The new chapter includes provisions on judicial scrutiny of coupons, prohibition on the payment of bounties, disclosure of attorneys' fees, and plain English settlement information.

- Section 4 amends **section 1332 of title 28, U.S.C.**, to give district courts original jurisdiction of any civil action in which the matter in controversy exceeds \$2,000,000, exclusive of interest and costs, and is a class action in which: (1) any member of a class of plaintiffs is a citizen of a State different from any defendant; (2) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or (3) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

- Section 5 amends **chapter 89 of title 28, U.S.C.**, to set forth when and how a class action case may be removed to federal court.

- Section 6 amends **section 1292(a) of title 28, U.S.C.**, to allow for the

interlocutory appeal of class certification orders made pursuant to Civil Rule 23. Unless otherwise ordered, all discovery and other proceedings shall be stayed during the pendency of any such appeal.

— Section 7 directs the Judicial Conference, with assistance from the Administrative Office and the Federal Judicial Center, to prepare and transmit a report to the House and Senate Committees on the Judiciary. This report, which is due 12 months after date of enactment, shall contain (1) recommendations on how courts can ensure that the proposed class settlements are fair, (2) recommendations on how the courts can ensure that the fees and expenses awarded are fair and that the class members are the primary beneficiaries of the settlement, and (3) actions that the Judicial Conference has taken and intends to take on the above-mentioned recommendations.

● H.R. 2458 - *E-Government Act of 2001*

- Introduced by: Turner

- Date Introduced: 7/11/01.

- Status: Referred to House Committee on Government Reform (7/11/01). Referred to House Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations (7/20/01). Referred to House Subcommittee on Technology and Procurement Policy (7/2/02). Subcommittee meeting held (9/18/02). Subcommittee mark-up session (10/1/02). Subcommittee voted to forward to full committee (10/1/02). Committee mark-up session held (10/9/02). Ordered to be reported (10/9/02). House passed (11/15/02). Senate passed without amendment (11/15/02). Cleared for White House (11/15/02).

- Related Bills: S. 803.

- Key Provisions:

- Section 205(a) requires that each federal court establish a website that includes information such as the location and contact information for the courthouse, local rules and general orders of the court, case docket information, all written court opinions (published and unpublished), and all documents filed with the court in electronic form.

- Section 205(b) requires that the information and rules posted on each federal court website shall be updated regularly and kept reasonably current. Electronic files and docket information pertaining to cases closed for more than one year are not required to be posted on the website. All written opinions issued after the effective date of the legislation shall remain available on the website.

- Section 205(c) states that any document filed electronically shall be made available on the court website. However, documents not available to the public (*i.e.*, filed under seal) shall not be made available online. Under Section 205(c)(3), the Supreme Court must promulgate rules under the Rules Enabling Act “to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically.”

- Under Section 205(c)(3)(B)(i), the Judicial Conference may issue interim rules and

“interpretative statements” relating to the interim rules.

— Section 205(f) states that the federal courts must establish the Section 205(a) websites within two years after the effective date of the legislation. Access to documents filed in electronic form shall be established within four years of the effective date of the legislation.

— Section 205(g) allows courts to defer compliance with this section. The Judicial Conference shall submit an annual report to Congress that lists, summarizes, and evaluates all deferral notices.

- H.R. 2519 - *To allow media coverage of court proceedings*

- Introduced by: Chabot

- Date Introduced: 7/17/01.

- Status: Referred to the House Subcommittee on Courts, the Internet, and Intellectual Property (8/6/01).

- Related Bills: S. 986.

- Key Provisions:

— Section 2 authorizes the presiding judge of a federal appellate or district court to allow media coverage of any proceeding in which the judges presides. Section 2 also authorizes the Judicial Conference to promulgate advisory guidelines on the allowance of media coverage in court proceedings.

- H.R. 2734 - *Bail Bond Fairness Act of 2001*

- Introduced by: Barr

- Date Introduced: 8/2/01.

- Status: Referred to the House Committee on the Judiciary (8/2/01); Referred to House Subcommittee on Crime (9/10/01).

- Related Bills: H.R. 2929.

- Key Provisions:

— The Act amends **18 U.S.C. §§ 3146 and 3148** to provide that the forfeiture of a bail bond is limited to those situations in which the defendant actually fails to physically appear before a court as ordered. (The Act specifically provides that a judicial officer may not order a bond forfeited simply because the defendant violated a condition of release, notwithstanding the provisions in Criminal Rule 46(e).)

- H.R. 2843 - *To amend the Federal Rules of Criminal Procedure to allow motions for a new trial at any time where the error alleged is a violation of constitutional rights*

- Introduced by: Scarborough

- Date Introduced: 9/5/01.

- Status: Referred to the House Committee on the Judiciary (9/5/01). Referred to the House Subcommittee on Crime (9/10/01).

- Related Bills: None.

- Key Provision:

— The Act amends **Criminal Rule 33** to allow a defendant to move for a new trial at any time before the final sentence when the defendant alleges a violation of a constitutional right.

- H.R. 2929 - *Bail Bond Fairness Act of 2001*

- Introduced by: Barr
- Date Introduced: 9/21/01.
- Status: Referred to the House Committee on the Judiciary (9/21/01); Referred to House Subcommittee on Crime (9/28/01). Subcommittee hearings held (10/8/02).
- Related Bills: H.R. 2734.
- Key Provisions:
 - The Act amends **18 U.S.C. §§ 3146 and 3148** to provide that the forfeiture of a bail bond is limited to those situations in which the defendant actually fails to physically appear before a court as ordered.
 - The Act also amends **Criminal Rule 46** to provide that judges may declare bail bonds forfeited only when the defendant actually fails to physically appear before a court as ordered.

- H.R. 3162 - *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001*

- Introduced by: Sensenbrenner.
- Date Introduced: 10/23/01.
- Status: Referred to the Committee on the Judiciary, and in addition to the Committees on Intelligence (Permanent Select), Financial Services, International Relations, Energy and Commerce, Education and the Workforce, Transportation and Infrastructure, and Armed Services (10/23/01). On motion to suspend the rules and pass the bill agreed to by the Yeas and Nays: 357 - 66 (10/24/01). Received in the Senate (10/24/01). Passed Senate without amendment by yea-nay vote of 98 - 1 (10/25/01). Signed by the President; became Public Law No: 107-56 (10/26/01).
- Related Bills: S. 1510; H. Res. 264; H.R. 2975, H.R. 3108.
- Key Provisions:
 - Section 203 amends **Criminal Rule 6** to allow for the sharing of grand jury information in matters pertaining to foreign intelligence or counterintelligence.
 - Section 219 amends **Criminal Rule 41** to authorize a magistrate judge in any district in which activities relating to terrorism has occurred to issue a nationwide search warrant.
 - Section 412 amends **8 U.S.C. § 1101 et seq.** to provide that judicial review of any decision regarding the detention of a suspected terrorist alien is available exclusively in habeas corpus proceedings in the United States Supreme Court, the United States Court of Appeals for the District of Columbia Circuit, or any district court otherwise having jurisdiction to entertain it.

- H.R. 3210 - *Terrorism Risk Protection Act*

- Introduced by: Oxley.
- Date Introduced: 11/1/01.
- Status: Referred to the House Committees on Financial Services, Ways and Means, and the Budget (11/1/01). Passed the House by a yea-nay vote of 227 to 193 (11/29/01). Received in the Senate (11/30/01). Received in the Senate, read the first time, and placed on Senate Legislative Calendar (11/30/01). Read the second time and placed on Senate Legislative Calendar under General Orders (12/3/01). Senate struck all after the Enacting Clause and substituted the language of S. 2600 as amended (7/25/02). Conference requested (7/25/02) and conferees appointed (7/27/02). Conference report filed (H. Rep. 107-779) (11/13/02). House agreed to conference report by voice vote (11/14/02). Senate agreed to conference report by a vote of 86-11 (11/19/02). Signed by the President (11/26/02) (Pub. L. 107-297).
- Related Bills: S. 1743, S. 1744, S. 1748, S. 1751, S. 2600.
- Key Provisions:
 - Under section 15, if the Secretary of the Treasury determines that one or more acts of terrorism have occurred, all lawsuits arising out of those acts of terrorism must be filed in the federal court or courts -- which shall have original and exclusive jurisdiction -- as selected by the Judicial Panel on Multidistrict Litigation. This is the exclusive remedy for damages claimed for insured losses resulting from acts of terrorism. The Act also prohibits the award of punitive damages and limits the award of attorneys' fees. The defendants' liability is also limited to noneconomic damages.

● H.R. 3285 - *Federal-Local Information Sharing Partnership Act of 2001*

- Introduced by: Weiner.
- Date Introduced: 11/13/01.
- Status: Referred to the House Committee on the Judiciary, and in addition to the Committees on Intelligence (Permanent Select), Financial Services, and Education and Workforce (11/13/01). Referred to the Subcommittee on 21st Century Competitiveness (3/6/02).
- Related Bills: S. 1615.
- Key Provisions:
 - Section 2 amends **Criminal Rule 6** to allow for the sharing of grand jury information in matters pertaining to foreign intelligence or counterintelligence with specific federal, state, or local officials.
 - Section 4 amends the **Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (P.L. No. 107-56)** to allow for the sharing of grand jury information in matters pertaining to foreign intelligence or counterintelligence with specific federal, state, or local officials.

● H.R. 3309 - *Investigation Enhancement Act of 2001*

- Introduced by: Walden.

- Date Introduced: 11/15/01.
 - Status: Referred to the House Committee on the Judiciary (11/15/01).
 - Related Bills: None.
 - Key Provision:
 - The Act amends **28 U.S.C. § 530B(a)** to permit a Government attorney, for the purpose of enforcing Federal law, to provide legal advice, authorization, concurrence, direction, or supervision on conducting undercover activities, notwithstanding any provision of state law.
- H.R. 3611 - *Terrorist Victims' Courtroom Access Act*
 - Introduced by: Davis.
 - Date Introduced: 1/23/02.
 - Status: Referred to the House Committee on the Judiciary (1/23/02). Referred to the House Subcommittee on Courts, the Internet, and Intellectual Property (3/18/02).
 - Related Bills: S. 1858.
 - Key Provisions:
 - Section 2 would authorize, notwithstanding any provision of the Criminal Rules, the closed circuit broadcast of the trial of Zacarias Moussaoui to the victims of the terrorist act of September 11, 2001. The proceedings shall be broadcast to locations in Northern Virginia, Los Angeles, New York City, Boston, Newark, San Francisco, and any other location that the trial court determines.
- H.R. 3892 - *Judicial Improvements Act of 2002*
 - Introduced by: Coble.
 - Date Introduced: 3/7/02.
 - Status: Referred to the House Committee on the Judiciary (3/7/02). Referred to the Subcommittee on Courts, the Internet, and Intellectual Property (3/15/02). Subcommittee consideration and mark-up session (3/20/02). Judiciary Committee consideration and mark-up session. Ordered to be reported as amended (4/24/02). Reported by the Committee and placed on Union Calendar (5/14/02). Motion to suspend rules and pass bill as amended. Agreed by voice vote (7/22/02). Received in the Senate, read twice, and referred to the Committee on the Judiciary (7/22/02). Reported by the Committee with an amendment in the nature of a substitute; placed on legislative calendar (7/31/02).
 - Related Bills: None.
 - Key Provisions:
 - **28 U.S.C. § 46(c)** provides that a majority of judges who are in regular active service may order an en banc hearing or rehearing before the court. Section 3 amends the statute by providing that for purposes of determining a majority of judges, “there shall be excluded any judge who is recused from the case or controversy at issue.” [This provision, which would have affected **Appellate Rule 35**, was deleted during House markup sessions].
- H.R. 4513 - *Social Security Number Protection Act of 2002*

- Introduced by: Markey
 - Date Introduced: 4/18/02.
 - Status: Referred to the House Committee on Energy and Commerce, and House Committee on Ways and Means (4/18/02); Referred to House Subcommittee on Commerce, Trade and Consumer Protection (5/6/02).
 - Related Bills: S. 848.
 - Key Provisions:
 - The Act makes it unlawful for any person to sell or purchase a Social Security number in a manner that violates to-be-promulgated regulations issued by the Federal Trade Commission. Section 4(b)(3) states that these regulations shall be drafted to permit the sale or purchase of Social Security numbers for certain limited purposes, including law enforcement, public health, and other instances that are not inconsistent with congressional findings (note: Section 2 sets forth the congressional findings. Finding “(2)” recognizes that certain entities such as financial institutions, health care providers, and other entities have traditionally used Social Security numbers for identification purposes).
- H.R. 4598 - *Homeland Security Information Sharing Act*
- Introduced by: Chambliss, Saxby
 - Date Introduced: 4/25/02.
 - Status: Referred to House Select Committee on Intelligence and House Judiciary Committee (4/25/02); Referred to House Subcommittee on Crime, Terrorism, and Homeland Security (5/6/02); Subcommittee meetings held and markup. Forwarded to full committee by voice vote (6/4/02); Committee consideration and markup. Ordered reported by voice vote (6/13/02); Passed in the House by a vote of 422-2 (6/26/02). Received in the Senate and read twice and referred to the Committee on the Judiciary (6/27/02).
 - Related Bills: H.R. 458.
 - Key Provisions:
 - Section 6 would amend **Criminal Rule 6(e)** to permit the sharing of certain grand-jury information pertaining to a criminal investigation or to prevent or respond to actual or potential attacks to appropriate state, local, and foreign government officials.
- H.R. 5005 - *Homeland Security Act of 2002*
- Introduced by: Arney.
 - Date Introduced: 6/24/02.
 - Status: Referred to House Select Committee on Homeland Security and to the House Committees on Agriculture, Appropriations, Armed Services, Energy and Commerce, Financial Services, Government Reform, Intelligence (Permanent Select), International Relations, the Judiciary, Science, Transportation and Infrastructure, and Ways and Means Select Committee on Intelligence and House Judiciary Committee (6/24/02); passed the House with amendments by a vote of 295-132 (7/26/02); received in the Senate and

placed on legislative calendar (7/30/02). Senate passed by a vote of 90-9 (11/19/02). Signed by the President (11/25/02) (Pub. L. 107-296).

- Related Bills: H.Res. 449.

- Key Provisions:

— Section 895 amends **Criminal Rule 6(e)** by: (a) providing that any knowing violation of guidelines jointly issued by the Attorney General and Director of Central Intelligence (DCI) with respect to the unauthorized disclosure of grand jury matters may be punished as a contempt of court; (b) authorizing the disclosure of grand jury matters involving a threat of grave hostile acts of a foreign power, domestic or international sabotage or terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power to appropriate federal, state, local, or foreign government officials; (c) authorizing the disclosure of grand jury matters to appropriate foreign government officials that may disclose a violation of the law of such government; and (d) requiring state, local, and foreign officials use disclosed grand jury information only in conformity with guidelines jointly issued by the Attorney General and the DCI.

- H.R. 5710 - *Homeland Security Act of 2002*

- Introduced by: Arney.

- Date Introduced: 11/12/02.

- Status: Rules Committee Resolution H.Res. 600 (11/13/02). Rule provides for consideration of bill with limited debate. Bill closed to amendments. Passed House by a vote of 299-121 (11/13/02).

- Related Bills: H.R. 5005.

- Key Provisions:

— Section 895 amends **Criminal Rule 6(e)** by: (a) providing that any knowing violation of guidelines jointly issued by the Attorney General and Director of Central Intelligence (DCI) with respect to the unauthorized disclosure of grand jury matters may be punished as a contempt of court; (b) authorizing disclosure of grand jury information to officials of foreign governments to assist in the enforcement of federal criminal law; (c) authorizing disclosure of grand jury information upon request by the government when such information is sought by a foreign court or prosecutor for use in an official criminal investigation; (d) authorizing the disclosure of grand jury matters to appropriate foreign government officials that may disclose a violation of that government's criminal laws; (e) authorizing the disclosure of grand jury matters involving a threat of actual or potential attack or other grave hostile acts of a foreign power, domestic or international sabotage or terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power to appropriate federal, state, local, or foreign government officials; and (f) requiring state, local, and foreign officials use disclosed grand jury information only in conformity with guidelines jointly issued by the Attorney General and the DCI.

SENATE RESOLUTIONS

● S.J. Res. 35 - *Proposing an Amendment to the Constitution of the United States to Protect the Rights of Crime Victims*

- Introduced by: Feinstein
- Date Introduced: 4/15/02.
- Status: Referred to the Senate Committee on the Judiciary (4/15/02); hearing held by Subcommittee on the Constitution (7/17/02).
- Related Bills: H.J. Res. 91; H.J. Res. 88.
- Key Provisions:
 - Section 2 provides that a victim of a violent crime shall have the constitutional right to (1) reasonable and timely notice of any public proceeding involving the defendant; (2) appear at such proceedings and to be heard on matters such as the release, plea, sentencing, reprieve, and pardon of the accused; and (3) adjudicative decisions that consider the victim's safety, interest in avoiding unnecessary delay, and interest in fair and timely claims to restitution from the accused. These rights shall not be restricted except as dictated by public safety, compelling necessity, or the administration of justice.

HOUSE RESOLUTIONS

● H.J. Res. 91 - *Proposing an Amendment to the Constitution of the United States to Protect the Rights of Crime Victims*

- Introduced by: Chabot
- Date Introduced: 5/2/02.
- Status: Referred to the House Committee on the Judiciary (5/2/02). House Judiciary Committee's Subcommittee on Constitution held hearings (5/9/02).
- Related Bills: S.J. Res. 35
- Key Provisions:
 - Section 2 provides that a victim of a violent crime shall have the constitutional right to (1) reasonable and timely notice of any public proceeding involving the defendant; (2) appear at such proceedings and to be heard on matters such as the release, plea, sentencing, reprieve, and pardon of the accused; and (3) adjudicative decisions that consider the victim's safety, interest in avoiding unnecessary delay, and interest in fair and timely claims to restitution from the accused. These rights shall not be restricted except as dictated by public safety, compelling necessity, or the administration of justice.